



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 7698-99

23 March 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 22 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The records provided for the Board's reviewed were incomplete. However, the medical records show that during enlistment processing, you disclosed that you had orthoscopic knee surgery in 1990. On 11 April 1997, the Report of Medical Examination noted that the right knee was stable with a full range of motion, X-rays were negative, and the condition was not considered disqualifying.

The record reflects that you enlisted in the Marine Corps on 21 May 1997 and were advanced to PFC (E-2) on 2 August 1997.

On 26 May 1998, you underwent an arthroscopy of the right knee. You were informed by a medical board on 8 June 1998 that your case was being referred to a physical evaluation board (PEB). You declined to submit a statement in rebuttal and on 10 June 1998 the commanding officer was advised that you were being processed for separation due to chondromalacia patellae.

Although not shown in the medical record, a PEB apparently found you unfit by reason of physical disability. On 15 September 1998, you were honorably discharged by reason of "disability with severance pay" and assigned an RE-3P reenlistment code.

Regulations authorize the assignment of an RE-3P or RE-4 reenlistment code to individuals who are separated by reason of physical disability. An RE-3P reenlistment code means the individual is eligible for reenlistment except for the disqualifying medical conditions which led to discharge. An RE-4 reenlistment code means the individual is ineligible for reenlistment without prior approval from the Commander, Navy Personnel Command. The RE-3P reenlistment code may be waived by recruiting medical officials if they are convinced that the disqualifying condition no longer exists or will not recur. This Board has no authority to waive a code to allow reenlistment. Since you have been assigned the most favorable reenlistment code authorized by regulation and have been treated no differently than others discharged under similar circumstances, the Board could find no error or injustice in the assigned reenlistment code. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director